

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

LISA J. HALE.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 11-CV-00591-W-FJG
)	
THOMAS J. VILSACK, SECRETARY OF)	
THE UNITED STATES DEPARTMENT OF)	
AGRICULTURE,)	
)	
Defendant.)	

ORDER

Currently pending before the Court is defendant's Motion to Dismiss Counts II and IV of Plaintiff's Complaint (Doc. # 3).

Defendant argues that Count II (alleging race discrimination based on a failure to promote in violation of 42 U.S.C. § 1981) and Count IV (alleging reprisal in violation of 42 U.S.C. § 1981) must be dismissed because the Court lacks subject matter jurisdiction over these claims. Defendant states that as a federal employee, plaintiff's sole basis for alleged race discrimination or reprisal due to EEO activity is found in Title VII. See Love v. Holder, No. 4:09CV00043JMM, 2009 WL 3617807, *2 (E.D.Ark. Oct. 29, 2009) ("§1981 does not apply to federal employees."); Walton v. U.S. Dept. Of Agriculture, No. 4:02CV00163AGF, 2007 WL 1246845, *11 (E.D.Mo. Apr. 30, 2007) ("[U]nlike a private employee, a federal employee may not maintain a claim under § 1981 against the United States based on a claim of intentional discrimination in employment."). Plaintiff filed a response indicating that she has no objection to the dismissal of Counts II and IV.

Accordingly, as the Court lacks subject matter jurisdiction over Counts II and IV found in plaintiff's Complaint, the Court hereby **DISMISSES** Counts II and IV of plaintiff's Complaint.

Date: 9/14/2011
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge